

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

THE CITY OF BRISTOL, TENNESSEE,)

Plaintiff,)

v.)

THE CITY OF BRISTOL, VIRGINIA,)

Defendant.)

Case No.: 1:22-cv-00023-JPJ

STATUS REPORT

Pursuant to this Court’s August 31, 2022, Order, the City of Bristol, Virginia (Bristol VA) provides (1) the status of the application of intermediate cover, setting forth Bristol VA’s efforts to accelerate this application, and (2) detailed timelines on the installation of thermocouples, including options for expediting the timeline. In providing options on thermocouple installation, Bristol VA coordinated with its experts and sought the input of Bristol TN.

The City Has Made Significant Progress Placing Intermediate Cover and Will Complete Efforts On or Before October 10, 2022, Deadline.

Bristol VA has attached a declaration from City Manager Randall Eads setting forth the City’s increased efforts to place cover. (**Contemporaneously filed herewith as ECF 45.**) Bristol VA estimates that seventy-six percent of the Landfill has intermediate cover of 12-inches or more, and plans to perform quality checks after the majority of dirt has been placed. Bristol VA ceased accepting waste on September 9, 2022, which has aided the City’s cover installation efforts by decreasing traffic in the subject landfill (the “Landfill”) and opening up more area for

work. The City is utilizing overtime and weekends. Bristol VA has further engaged in due diligence regarding concerns raised by Bristol TN's expert in testimony before this Court. Bristol VA consulted with the Virginia Department of Environmental Quality ("DEQ") to determine whether the Virginia Administrative Code requirements referenced included in the Preliminary Injunction require any particular type of dirt for cover. The DEQ indicated no particular type of dirt is required.

Bristol VA has also verified that the requisite amount of cover is present in most areas where it had previously placed cover but Bristol TN had opined the cover was inadequate. Photographs of those site measurements are attached as **Exhibit 5 to the Declaration of Randall Eads**. Areas where cover is inadequate will receive additional cover. Bristol VA will continue to engage in quality control as it places cover.

Bristol VA has Continued Efforts to Install Thermocouples While Simultaneously Developing Additional Options for Court Consideration.

Bristol VA re-bid drilling and installation work of thermocouples on August 26, 2022, to keep the thermocouple efforts moving. It simultaneously requested that SCS Engineers provide options that could speed installation. (*See Exhibit 1-SCS Engineers Report.*) As part of that effort, Bristol VA sought the input of Bristol TN, who made its expert available to Bristol VA.¹ The options discussed by Bristol TN informed the options with appended schedules. Each of these options present tradeoffs between expeditiousness and durability. Bristol VA can produce its expert consultants for any questions or points of clarification that may assist the Court in this matter.

¹ Bristol TN proposed using iron casings for the thermocouples. Bristol VA considered this option but judged it impracticable because the iron will degrade.

Bristol VA has been pursuing option A putting the project out to bid on August 26, 2022, but will pivot to other options depending on the deadline set by the Court. The options for escalation are:

- A – Schedule as presented in prior filing; steel casings; using thermistors – estimated completion date March 14, 2023;
- B – Schedule proposes having Bristol VA procuring probe casing pipe itself – estimated completion date February 7, 2023;
- C – Schedule proposes having Bristol VA procuring probe casing pipe itself and acquire instrumentation before completion of borehole drilling – estimated completion date February 2, 2023;
- D – Schedule proposes eliminating use of casing pipe opting to install instrumentation directly in the waste – estimated completion date December 29, 2022;
- E – Schedule proposes having Bristol VA procuring probe casing pipe itself and acquire instrumentation before competition of the contract – estimated completion date December 28, 2022.

Dated: September 14, 2022

Respectfully submitted,

THE CITY OF BRISTOL, VIRGINIA

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CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2022, I caused the foregoing to be filed with the Clerk of the U.S. District Court for the Western District of Virginia using the Court's CM/ECF system, which will electronically serve copies of the same on counsel for all parties.

/s/ Christian E. Henneke

Counsel for Defendant The City of Bristol, Virginia